IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO

WRIT PETITION No. 7574 of 1999

Between:

Koda Surya Rao, S/o Masenu, Aged 60 years,
Occ: Agriculture, R/o Addaripeta, Thondangi

Mandal, East Godavri District.

PETITIONER

AND

1 Zilla Parishad, Rep. by its Chief Executive Officer,
Kakinada, East Godavari District.
2 Mandal Revenue Officer,
Thondangi Mandal, East Godavri District.

RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any Writ, Order or direction particularly a Writ in the nature of Mandamus declaring the inaction on the part of the Respondents in taking steps to protect the play ground of Z.P. High School Addaripeta Village, Thondangi Mandal, East Godavri District situated in Sy.No.294 in extent of Ac.5-47 cts. as arbitrary, illegal and consequently direct the respondents to clear all encroachments and to construct the Additional Accommodation only at the same premises instead of shifting part of the school to a place

located far away that too where the said land was given D-form pattas and to pass

Counsel for the Petitioner: DR.P.B.VIJAY KUMAR

Counsel for the Respondent No.: GP FOR REVENUE

The Court made the following :

ORDER:

The petitioner, in public interest, filed this writ petition, stating that he is the President of Zilla Parishad High School Committee. He stated that the said school was upgraded as High School and for upgradation, a minimum site of Ac.5.00 is required for play ground and building and the present extent is only Ac.5.47 cents and therefore, requested the respondents to clear off the encroachments from the school site. Though, process was taken up, but it was stopped and suddenly started constructing two rooms. It is further averred that the proposed land in which the respondents contemplated to construct additional accommodation, has already been assigned in favour of various individuals, belonging to weaker sections.

On Rule Nisi, counter is filed by the respondents.

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue.

The counter shows that the school building is located in Sy. No. 294 and the land near to the school measuring Ac.5.47 cents is allotted to the High School Play Ground has not been alienated. It is further stated that the President of the School Committee – petitioner herein, has given consent, but no alienation proposals were received from the Zilla Parishad or from the High School Committee. It is further stated that the land for which the President has given consent is classified as village site and the houseless families have occupied the site and the occupation by way of houses were regularized as the site is classified as village site. It is also their case that the occupants

were reluctant to vacate the site as no alternative site was provided and they have constructed residential huts and pucca houses more than 8 to 10 years and such occupations were regularized by granting house site patta as the land is free from alienation. In view of these facts, which are not controverted, the relief sought for in this writ petition cannot be granted. That apart, the school authorities have no right over the land, classified as village site. Consequently, the writ petition is not maintainable and is dismissed. No order as to costs.

Elipe Dharma Rao, J.

June 9, 2005

MAS

To

1 The Chief Executive Officer,

Zilla Parishad, Kakinada, East Godavari District.

2 The Mandal Revenue Officer,
Thondangi Mandal,

East Godavri District.

3. Two CCs to the Government Pleader for Revenue,

A.P. High Court Building, Hyderabad.

4. 2 CD copies

*Form-NIC-OGS/WP{**GSNM**}*